

March 13, 2000  
**AIR POLLUTION CONTROL ADVISORY COUNCIL  
(APCAC)**

**Member Attendees:** Cliff Cox, representing agriculture; Dennis Alexander, representing conservation, and Mike Machler, representing meteorology.

**Other Attendees:** Charles Homer and Deb Wolfe, Permitting and Compliance (P&C)/Department of Environmental Quality (DEQ); Ann Hedges, Montana Environmental Information Center (MEIC); Gail Abercrombie, Montana Petroleum Assoc.

**Speakers:** Bob Martin, Dan Rapkoch, John Podolinsky, Rich Southwick from DEQ; and Don Allen, Western Environmental Trade Association.

Meeting began at 2:05 PM in Room 225 of the Scott Hart Building of the Capitol Complex in Helena, Montana.

1. **Introductory Remarks. Mike Machler**, acting Chairman, welcomed all present. Absent were Chairman Diane Lorenzen, Dave Noell, Mitchell Leu, Dean Johnson, and Brad Black.
2. **Review of January 13, 2000 Minutes.** Dennis Alexander moved and Cliff Cox seconded the acceptance of the minutes. Motion carried. **Secretary's Note:** A quorum was not met, therefore the minutes could not be "officially" approved. The 1/13/00 minutes to be approved at the 5/11/00 meeting.
3. **Housekeeping Remarks. Bob Habeck, Resource Protection Planning Bureau, Planning, Preventing and Assisting Division, DEQ.** Resource on filling the vacancies. An excellent possibility to replace Sandra Fisher is Cathy Harris, a transportation engineer and a teacher of transportation planning (which includes a lot of urban planning) at Carroll College. There had been an initial list of four (urban planners/consultants) but three have called to have their names removed. There are three veterinarians from Conrad, Lewiston, and Hamilton that are possibilities to replace Ed Peretti. These applications will be sent to Mark Simonich, DEQ Director, and he will make a recommendation to Governor Racicot, and the Governor will make the appointments. Mr. Habeck said he expected the positions to be filled and the new members present at the May 11 meeting.

**Rule Making Action Items**

**a) Incorporation by Reference 2000. Bob Martin, Air and Waste Management Bureau, Permitting and Compliance Division, Dept. of Environmental Quality.**

Bob Martin passed out copies of the Board of Environmental Review's Attachment to Executive Summary, Code of Federal Regulations (CFR), Incorporation by Reference. A copy of this is Exhibit 1 of the minutes. He said this is a summary of some of the changes from the 1998 to the 1999 CFR that are specifically noted in our air quality rule. He said the incorporation by reference rule revision would be before the May meeting of the Board of Environmental Review for authority to initiate rulemaking. Mr. Machler asked if the classification of Prickly Pear Life Monitoring Site was one of the items changed. Mr. Martin said that change has already been implemented. It was put into a different category so it would be assimilated into a national lead database.

**b) Point Source State Implementation Plan (SIP) Overview. Rich Southwick, Point Source SIP Coordinator, Air Quality Planning and Standard Section, Resource Protection Planning Bureau, Planning, Prevention and Assistance Division, Dept. of Environmental Quality.**

Mr. Southwick said he had been requested to inform APCAC members about point source SIPs. A point source SIP Coordinator works with air pollution sources, almost exclusively industrial sources, to assure that the ambient air quality standards are met in Montana. The Coordinator develops an emission control plan, monitors that plan once developed, and if there is a need for changes detected by the department or requested by the industry in the control plan, he works with the industrial sources, the Environmental Protection Agency (EPA) and other government divisions to change the SIP for a better

fit. There are three ongoing projects at the present time--the East Helena Lead SIP and SO<sub>2</sub> SIP, and the Billings/Laurel SO<sub>2</sub> SIP.

A brief overview of the process: A need is identified. In the case of the present three projects, there were monitored or predicted violations of the ambient air quality standards. Once a problem has been identified, the problem is usually quantified through dispersion modeling to determine what affect the point source emissions have on the air quality. Once an agreement is reached on an emission control plan that would assure meeting the standards, the department works with the industrial facilities to reduce emissions. After a plan is formulated, the public has an opportunity to comment. The department attempts to address all comments received and then it goes to the Board of Environmental Review for adoption as a state rule. Once the Board has done this, the plan is submitted to EPA for approval as part of the SIP.

A brief overview of the three projects mentioned earlier: The East Helena Lead SIP began October 1978 when EPA set the National Ambient Air Quality Standard (NAAQS) for lead. Monitoring data indicated the air quality in East Helena did not meet the standard for lead, so the department began negotiations with ASARCO and American Chemet to develop an emission control plan that would assure that the standard would be met. A plan was developed in 1983 and was approved by EPA, but in 1988 EPA found the plan to be inadequate and redesignated the area "nonattainment." The 1988 SIP call obligated us to revise the plan. The department worked with the two industries, but it took longer than EPA allowed, and in February 1995 EPA imposed sanctions on industrial sources of lead in East Helena. In August of 1995 we submitted a control plan to EPA. This control plan has been amended two or three times to accommodate ASARCO's operating changes. Mr. Southwick said the plan is a good one and the department is optimistic that EPA will approve it. The industries have been operating largely in compliance under the plan since January of 1996. EPA doesn't take issue with the fact that the plan has been successful but have focussed on trying to understand how we came up with some of the emission limitations and assumptions. They have taken issue with "director's discretion." ASARCO requested that the control plan include flexibility to alter certain methodologies if a better methodology were to surface or one that better fit into their process. Basically the department agreed that if ASARCO proposed to change their emission monitoring methodology they must submit it to the department for approval and once approved it could be implemented. EPA has an unwritten policy not to permit this kind of discretion in emission monitoring. EPA's position is that the state department or director does not have the authority to change the plan -- only EPA has that authority.

Mr. Southwick said that the reason EPA has taken so long to respond to this project is that they have been concentrating on the Billings/Laurel SO<sub>2</sub> SIP as has the state office. Neither EPA or the state had the resources to devote to both plans at the same time. Since the lead control plan for East Helena was implemented and working, it was put on the back shelf for later review.

The East Helena SO<sub>2</sub> SIP is the second ongoing project and the one being focused on now. EPA established NAAQS for SO<sub>2</sub> in 1973. Montana developed a control plan in May 1975 and it was approved in September of 1975. Monitoring in 1975 indicated all was not well and it was declared a nonattainment area for SO<sub>2</sub>. The SIP was revised to address the problems and was resubmitted in 1979. There was a problem with the EPA federal stack height rules being litigated that had a direct impact on the plan submitted. Then came the amendments to the Clean Air Act, which basically said that if you don't have an approved plan for a nonattainment area prior to November 1990, you have to resubmit one. The department worked with ASARCO to develop a comprehensive emission control plan for SO<sub>2</sub> and ran into problems with the secondary standard. ASARCO and the state agreed on an emission control plan that could be demonstrated through dispersion modeling to protect the primary standard -- the annual and the 24-hour. ASARCO had problems with the three-hour standard. The dispersion model available at the time was not considered accurate because of the complex terrain element -- terrain that was higher than the stack. The department agreed that the modeling was perhaps inadequate and didn't accurately simulate what was going on in the airshed. EPA approved the control plan for the primary standard and gave us three years to develop a control plan to demonstrate attainment for the secondary standard. The milestone was not met and EPA imposed sanctions. A control plan for the

secondary standards is being worked on and the department expects to be able to send it to EPA in June of this year.

The third project is the Billings/Laurel SO<sub>2</sub> SIP. This really began in 1993 when EPA determined that our SIP was inadequate to protect the air standard in the airshed. This SIP call was unique as it was based on modeling-predicted violations. At that point in time most facilities were grandfathered sources and had no emission limitations. The department developed a control plan as a result of this SIP call that set up emission limitations on most significant contributors to SO<sub>2</sub>. It established continuous emission monitoring requirements on over 95% of the SO<sub>2</sub> sources. The plan was submitted to EPA in 1996 and EPA responded in June of 1997 with a long deficiency notice. In 1998 a new plan was submitted and in January of 1999 EPA responded and basically accepted the plan. There are still a few problems, such as the director discretion issue, the handling of flares and a handful of minor problems. We committed to fix these and most have been fixed. The department stipulated to these revisions and they will go to the Board in March for approval and then it will be sent to EPA as a SIP revision.

EPA took exception to our emission limits for flares and exempting them from meeting emission limits during start up and shut down. The department had included an initial limit for flares and included a monitoring methodology to determine compliance. The department could not find another SIP in the country that regulated flares for SO<sub>2</sub> emission, but the department felt it was important to have controls as it is a significant source of SO<sub>2</sub> in the airshed. We removed the flare requirement from our SIP that will be sent to EPA but will retain the flares language as a states-only requirement.

In summary: The East Helena lead SIP is in EPA's court; the East Helena SO<sub>2</sub> SIP is with the department and the department is working with ASARCO to get the finishing touches on that plan; after the March Board meeting, the Billings/Laurel SO<sub>2</sub> SIP should be in EPA's court.

In response to a question from Mr. Machler, Mr. Southwick said the department is supporting Montana Sulfur's claim that it is entitled to a 97.5-meter stack due to a downwash influence from a nearby facility. The department will wait and see what EPA does in its final action and what Montana Sulfur's reaction will be and if litigation results, will wait until that is resolved. Mr. Southwick said he didn't expect a final EPA decision on this in 2000. The final implementation plan for the flares will be even later. He said the department is looking forward to what EPA comes up with on flares. Mr. Southwick said the department has a good flare plan but the longer EPA takes to develop this SIP the better the flare plan will be as new technology is developing.

## Discussion Items

**a) Libby Asbestos – Update.** **DAN RAPKOCH, Communicator Manager, DEQ,** passed out copies of the "Handbook 2000." He said EPA released testing results on the Libby asbestos situation in February. EPA found two hot spots – Parker Place (screening plant for vermiculite as it came off the conveyor belt from the Grace Mine) and the processing plant which is located just off downtown Libby that had operated until 1985. He said there is initial talk about removing as much as three feet of soil from twenty-one acres as well as most of the buildings at the Parker Place. The soil would be replaced. There is a concern about where the removed soil would be taken. There is a possibility that it could be placed back on the Libby mine site.

Air samples were taken from thirty-two homes to test for asbestos levels. One home had elevated tremolite asbestos fibers and one other home had elevated levels of another asbestos fiber, which is not associated with the Libby vermiculite mine. After these initial tests the air quality samples have been sent back for further testing as, while the samples did not fall into the area of the 5 to 10 micron size fiber that is considered a health risk, thirty of the homes tested showed elevated levels of asbestos fibers. Questions have been raised as to what is a safe level of asbestos and what is a safe size in terms of health effects. Libby will possibly become a test-bed and a working laboratory to determine these factors. There is talk about doing testing on residents within a 2.5 radius of the Libby processing plant from six months prior to the closing of the mine in 1991. The preliminary numbers are that about 5000

people could be getting chest x-rays and have periodic screenings done. Mr. Rapkoch has been working with the Governor's Office to develop an 800 number so people can call if they have asbestos concerns. Mr. Rapkoch said he has been receiving calls from people worried about danger from Zonolite insulation. He said Mr. Podlinsky did a story with Erica Curliss of the Lee Newspapers that alerted people on what to look for and what to do if the insulation has been disturbed. This information was also posted on the department's website. Mr. Rapkoch said there is a list of contractors and laboratories that test homes for asbestos problems.

***b) Libby Asbestos –Asbestos Control Program. John Podolinsky, Air and Waste Management Bureau, Permitting and Compliance Division, DEQ.***

Mr. Podolinsky said he and Pierre Amicucci are Air Quality Specialists for the Asbestos Control Program. John Constan of DEQ's Remediation Division is also working with the situation in Libby. John passed out copies of the "Bridge," a MSU publication for March/April and May/June 1999 (exhibits 2 and 3 of the minutes). The department worked with the Montana State University to develop these articles on asbestos and demolition/renovation activities. He said the first article explains asbestos and the second article goes over Montana regulations as they apply to building owners. Exhibit 4 is a description of DEQ's Asbestos Control Program. Mr. Podlinsky said they are getting calls from people concerned about Zonolite (trade name of W.R. Grace Company) and other building materials. Mr. Podolinsky said in 1974 the W.R. Grace mill became a wet mill which removed a lot of the contaminants and then sold a product that was supposedly 99% clean or free of asbestos. In 1973 a regulation promulgated by EPA called the "National Emission Standards for Hazardous Air Pollutants" (NESHAP) promulgated by EPA came out and is the grandfather of asbestos regulations. These regulations contain standards for renovations and demolitions. The regulation also speaks to asbestos mills and roadways built with asbestos tailings. The mill at Libby fell through the cracks of being regulated by the NESHAP because its product was considered nonasbestos. According to records, there was no commercial value in tremolite so W.R. Grace did not sell it and so the mill was not regulated by the NESHAP.

In the late 1980s Montana adopted regulations for asbestos in buildings. Anyone working with asbestos in schools needed to be trained, certified and accredited. These requirements were placed on public and commercial buildings in the late 1980s. The Asbestos Control Program administers an asbestos personnel accreditation program.

Mr. Podolinsky said that with the more than one-percent asbestos limit, exposed people are coming down with illnesses so the regulation may need to be reassessed. He said that Libby has presented a real question mark, partly due to the asbestos exposure/symptom latency period. Those exposed to asbestos may not show signs of illness for 10 to 40 years and there are many variables that enter in, such as genetic makeup and lifestyle. Mr. Podolinsky said in the long run the dilemma at Libby might cause building owners and contractors to reassess the need for following regulations more closely to avoid regulatory and health-related liabilities.

The Asbestos Abatement Program also permits asbestos abatement projects involving the removal, encapsulating, enclosure, disposal, transporting, or disturbing of asbestos that is in the amount of three or more square or linear feet of asbestos-containing material. In 1970 a ban was placed on the manufacturing and importation of many asbestos containing materials. In 1989 EPA took additional steps in that direction, but much of the ban was repealed in 1991 due largely to politics. Many asbestos product manufacturers faced with the possibility of asbestos liabilities went to other products. But, now with free trade agreements, some new asbestos-containing products are coming into the United States. Contractors and building owners might be installing these in their buildings and may not be aware that they contain asbestos. The EPA is recommending these products be labeled so purchasers will know if they contain asbestos.

Mr. Podolinsky said OSHA has a lot to do with the control of asbestos and the state has adopted their regulations by reference and incorporation. The department works with contractors and building owners encouraging them to comply with regulations. The Program issues 130 to 180 asbestos abatement project permits per year. There are approximately 450 accredited personnel. Mr.

Podolinsky said they are in the process of rewriting some of the asbestos rules to make some changes and to clarify parts, as the rules haven't been revised since 1993, and OSHA redid their regulations in 1994. There is a lot more information available now.

The department is recommending to callers concerned about Zonolite insulation to leave it alone if possible. If it has to be removed, the recommendation is to use a certified asbestos contractor. The department tries to work with contractors to get them into compliance and they do a lot of work in this field. However, if violators fail to follow criteria and don't get into compliance, the department can go to the Enforcement Division and seek formal enforcement. On April 10 and 11 the department along with MSU Extension Service is sponsoring an asbestos conference titled "Knowing the Facts about Asbestos and Asbestos Containment Materials" in Bozeman at the Holiday Inn. The department publishes a list of accredited people that includes contractors and labs.

In answer to a question, Mr. Podlinsky said the asbestos mine south of Bozeman, owned by the USFS and operated sporadically from the 30s to the early 70s, is on the list for reclamation. A posted public trail leads to the mine.

**(b) Credible Evidence Rule. DON ALLEN, Western Environmental Trade Association (WETA).** Mr. Allen said the industry people would like to see the state wait on revising this rule since EPA has given the state an 18-month extension. If the department proceeds with rulemaking, WETA would like to have Alternative Two included in the Credible Evidence Rule. Alternative Two is presumptive language that states that admissible credible evidence must clearly and convincingly overcome a reference test method if a violation is to be established. He questioned why Region VIII was the only receiver of a SIP call on this.

**GAIL ABERCROMBIE, Montana Petroleum Association,** said the association was looking for a case to test in court on the credible evidence criteria.

**ANN HEDGES, Environmental Information Center,** said the information heard today was only one sided with some misinformation and felt it would benefit all to hear the other side before making a recommendation.

Mr. Alexander asked to have the difference between the two alternatives explained in a few words.

**CHARLES HOMER, P&C, DEQ,** said alternative Two contains the same credible evidence language but has a sentence or two that establishes a presumption of compliance for a reference test that can only be rebutted by a standard of clear and convincing evidence. He said the department would have proceeded outside the SIP call to adopt the EPA credible evidence rule so the state can be the implementer. The rule is in effect now in Montana but the EPA is enforcing it. The main reason Region VIII received this SIP call was that the states in Region VIII requested it. A number of states and local air programs already have Alternative One in the form of an enhanced monitoring rule that came out in 1994. The credible evidence rule contained in it listed reference tests. He said in the department's view there is a huge step between saying certain things will be considered presumptively credible and the enhanced monitoring rule and saying as in Alternative Two that these things will presumptively show compliance.

Mr. Habeck said at the request of Chairman Diane Lorenzen and Mr. Mitchell Leu he would like recorded that they favored Alternative Two. Since there is not a quorum present, a motion stating this would not be in order. A poll of members present could be taken or members could abstain and attend the March 16 Board of Environmental Review Meeting and more information would be available. Mr. Machler and Mr. Cox went on record as favoring Alternative Two and Mr. Alexander favored Alternative One.

The next meeting will be on May 11 in the Metcalf Conference Room. The July meeting will be June 28. Mr. Alexander moved to accept that meeting date and it was seconded and carried. Meeting adjourned at 4:15 PM.